

THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:14-cv-00224-MR-DLH

JAMES LAWRENCE SMITH, )  
                            )  
Plaintiff,              )  
                            )  
vs.                      )                   ORDER  
                            )  
BUNCOMBE COUNTY, et al., )  
                            )  
Defendants.            )  
                            )  
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**THIS MATTER** is before the Court on the Plaintiff's Motion for Order to Set Aside Judgment [Doc. 6].

On August 25, 2014, the Plaintiff filed this action, asserting, *inter alia*, claims for deprivation of his constitutional rights in the course of a foreclosure proceeding against his property located at 47 Gill Branch Road, Weaverville, North Carolina ("the property"). [Doc. 1]. On August 26, 2014, the Plaintiff filed a motion seeking a temporary restraining order in an attempt to prevent the property foreclosure sale from taking place. [Doc. 3].

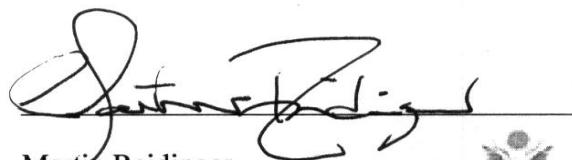
On August 26, 2014, the Court entered an Order dismissing this action for lack of subject matter jurisdiction and denying the Plaintiff's request for a temporary restraining order. [Doc. 5]. On September 5,

2014, the Plaintiff filed the present motion seeking to set aside the Court's Order. [Doc. 6]. While conceding that his application for a temporary restraining order "may be moot," the Plaintiff argues that he is still entitled to maintain an action under 42 U.S.C. § 1983 against the Defendants because of their violations of his constitutional rights. [Id. at 1]. He further seeks leave to amend his Complaint to "more fully explicate" his claims. [Id. at 4].<sup>1</sup>

Upon consideration of the Plaintiff's motion, and for the reasons stated in the Court's prior Order [Doc. 5], the Plaintiff's motion to set aside is denied. To the extent that the Plaintiff seeks leave to amend his Complaint, this request is also denied. A litigant has no right to amend a pleading which has been dismissed.

**IT IS, THEREFORE, ORDERED** that the Plaintiff's Motion for Order to Set Aside Judgment [Doc. 6] is **DENIED**.

**IT IS SO ORDERED.**



Martin Reidinger  
United States District Judge



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<sup>1</sup> The Plaintiff also requests "leave of the court to file a more comprehensive narrative in this cause." [Doc. 6 at 4]. More than four days have now passed since the filing of the Plaintiff's motion, and he has not supplemented his pleading.

